

**ORDINANCE ELIMINATING SMOKING
IN ALL MUNICIPAL FACILITIES
(100% SMOKE FREE)**

Sec. 1000. Title

This Article shall be known as the City of Livingston Smoke Free Air Ordinance of 2010.

Sec. 1001. Findings and Intent

The City of Livingston does hereby find as follows:
that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in all public facilities in the City of Livingston; and (2) to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority over the desire to smoke.

Sec. 1002. Definitions

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section.

1. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity.
2. "Employer" means a person, business, partnership, association, and corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons.
3. "Enclosed" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
4. "Place of Employment" means an area under the control of a public employer that employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, and vehicles.
5. "Public Facility" means a building, including a part of a building, or vehicle owned, leased, or operated by the City of Livingston.
6. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form.

Sec. 1003. Prohibition on Smoking in Public Facilities

Smoking shall be prohibited in all enclosed public facilities in the City of Livingston This prohibition shall apply to all areas in those facilities, whether used as a place of employment or as a place for the conduct of public business, and shall include, without limitation, the following places:

Topic Template

SAH Implementation Guide

6/24/2010

1. Libraries.
2. Civic Center.
3. City Hall.
4. Any city owned building.
5. Polling places.
6. Restrooms, lobbies, reception areas, hallways, and other common-use areas.

Sec. 1004. Reasonable Distance

Smoking is prohibited within a reasonable distance of 25 feet outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems, or other means.

Sec. 1005. Where Smoking Not Regulated

Notwithstanding any other provision of this Article to the contrary, the following areas shall be exempt from the provisions of Section 1003:

1. Private residences.

Sec. 1006. Posting of Signs

- A. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public facility where smoking is prohibited by this Article.
- B. Every public facility where this Article, including every dining area within such a facility, prohibits smoking shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
- C. The owner, operator, manager or other person having control of the area shall remove all ashtrays from any area where smoking is prohibited by this Article.

Sec. 1007. Non-retaliation

No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Article.

Sec. 1008. Enforcement

- A. The City Administrator or an authorized designee shall enforce this Article.
- B. Any citizen who desires to register a complaint under this Article may initiate enforcement with the City Administrator.
- C. An owner, manager, operator, or employee of a public facility regulated by this Article shall inform persons violating this Article of the appropriate provisions thereof.
- D. Notwithstanding any other provision of this Article, an employee or private citizen may bring legal action to enforce this Article.

Sec. 1009. Violations and Penalties

- A. A person who smokes in an area where smoking is prohibited by the provisions of this Article shall be guilty of an infraction, punishable by a fine not exceeding fifty dollars (\$50) for the first offense and an additional fifty dollars (\$50) for each additional offense.

Sec. 1010. Public Education

The City Administrator shall engage in a continuing program to explain and clarify the purposes and requirements of this Article to citizens affected by it.

Sec. 1011. Governmental Agency Cooperation

The City Administrator shall annually request other governmental and educational agencies having facilities within the City of Livingston establish local operating procedures in cooperation and compliance with this Article. This includes urging all Federal, State, County, City and School District agencies to update their existing smoking control regulations to be consistent with the current health findings regarding secondhand smoke.

Sec. 1012. Other Applicable Laws

This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 1013. Liberal Construction

This Article shall be liberally construed so as to further its purposes.

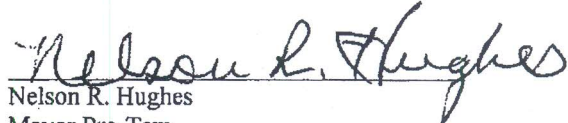
Sec. 1014. Severability

If any provision, clause, sentence, or paragraph of this Article or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are declared to be severable.

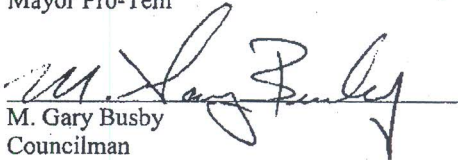
This Article shall be effective thirty (30) days from and after the date of its adoption.



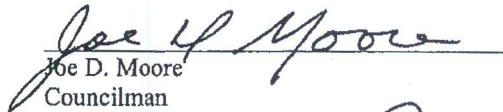
Thomas M. Tartt, III
Mayor



Nelson R. Hughes
Mayor Pro-Tem



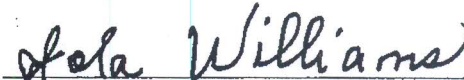
M. Gary Busby
Councilman



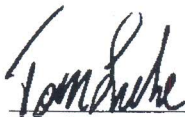
Joe D. Moore
Councilman



Carl W. Sudduth
Councilman



Iola Williams
Councilwoman



Tom Luke
City Clerk
SEAL

05/24/2010
DATE